

REMARKS

The Office Action dated February 4, 2009 has been received and considered. In this response, claims 49-52, 57-59, 64-69, 74, 75, 80-85, 90, 91, and 96 have been amended. Support for the amendments may be found in the specification and drawings as originally filed. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

Patentable Subject Matter Rejection of Claims 49-64

At page 2 of the Office Action, claims 49-64 are rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. These claims have been amended to more particularly tie the claimed method to a statutory category that accomplishes the recited method (i.e., the recited “media server”). Reconsideration and withdrawal of this rejection therefore is respectfully requested.

Obviousness Rejections of Claims 49-96

At page 3 of the Office Action, claims 49-58 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Date (U.S. Patent No. 5,959,677) in view of Banks (U.S. Patent No. 6,139,197). At page 5 of the Office Action, claims 59-96 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Date in view of Banks and in further view of Putzolu (U.S. Patent No. 6,584,509). These rejections are respectfully traversed with amendment.

Independent claim 49 has been amended and presently recites the features of:

selecting, at a media server, a first set of one of more multimedia channels of a plurality of multimedia channels of a first data stream responsive to determining a transmission of the first data stream is not expected to meet a predetermined criteria, the predetermined criteria comprising at least one of a real-time transmission or a transmission within a predetermined bandwidth;
compressing, at the media server, each multimedia channel of the first set to generate a second set of one or more multimedia channels;

generating, at the media server, a second data stream comprising the second set of multimedia channels and the one or more multimedia channels of the plurality of multimedia channels not selected for the first set; and
determining, at the media server, whether a transmission of the second data stream is expected to meet the predetermined criteria.

The Office relies on the combination of Date and Banks as disclosing the aspect of “determining whether a transmission of a data stream having a plurality of channels is expected to meet a predetermined [criteria].” *See Office Action*, p. 3. Noting that Date and Banks fail to disclose selecting a multimedia stream of a plurality of multimedia streams for compression when this predetermined criteria is not met, the Office relies on Putzolu as disclosing the aspect of “a selection method”. *Id.*, p. 5. The Office, noting that Putzolu teaches that a round robin scheme allows all classes to have equal opportunities to access a network link, concludes that it would have been obvious to “implement the selection method disclosed by Putzolu in order to obtain an apparatus that operates more efficiently by being able to select streams in a fair and equal manner.” *Id.*, pp. 5-6. The Applicants respectfully disagree.

Date discloses a technique of multiplexing “video/audio” signals allocated to different channels along with “digital data” for transmission via a transmission path. *See Date*, Abstract. Date teaches that when the “transmission rate R_a ” is higher than the “maximum transmission rate R_m ”, the variable-rate encoders 30 that encode the “video/audio signals” are controlled to reduce or “compress” each of the “video/audio” signals being transmitted so as to lower the transmission rate below the maximum transmission rate. *See Id.*, col. 5, lines 36-47 (“Incidentally, in the case where the transmission rate R_a is higher than the maximum transmission rate R_m . . . , the transmission rate evaluation control portion 3 supplies control signals 501 to the variable-rate encoders 30 so that the quantities of information generated in the variable-rate encoders 30 are reduced . . .”)(emphasis added). Thus, assuming, *arguendo*, that the transmission rate R_a being higher than the maximum transmission rate R_m constitutes not meeting a predetermined criteria, Date discloses that **every** “video/audio signal” is “compressed” when the predetermined criteria is not met and thus Date fails to disclose that there is a selection process with respect to which “audio/video signals” are to be compressed, whereas claim 49 provides for selecting one or more of the multimedia channels to be compressed.

Putzolu fails to compensate for the deficiencies of Date and Banks with respect to this aspect of claim 49. As noted above, the Office points to Putzolu as teaching a round robin method of selection. However, Putzolu teaches that this round robin selection method is for the purposes of link scheduling, which is unrelated to compressing multimedia streams for transmission. Thus, it is unclear as to why one of ordinary skill in the art would look to the round robin selection method for link scheduling disclosed by Putzolu when considering the compression of multimedia channels for transmission as taught by Date. Rather, a combination of Date, Banks, and Putzolu, if such a combination were to be made, would result in a system whereby the “audio/video signals” are selected for multiplexing into the transmission channel using the round-robin link scheduling technique of Putzolu and whereby *each and every* “audio/video signal” is compressed when the transmission rate criteria is not met. This combined system would not disclose or render obvious the features of “selecting . . . a first set of one of more multimedia channels of a plurality of multimedia channels of a first data stream responsive to determining a transmission of the first data stream is not expected to meet a predetermined criteria and compressing . . . each multimedia channel of the first set to generate a second set of one or more multimedia channels” as recited by claim 49.

Moreover, it would not be obvious to combine Date and Putzolu as proposed by the Office. The Office reasons that the rationale or motivation for combining Polzolu with Date is that one of ordinary skill in the art would implement the round robin selection method of Polzolu in the system of Date “in order to obtain an apparatus that operates more efficiently by being able to select streams in a fair and equal manner.” *Id.*, pp. 5-6 (emphasis added). However, while a round robin selection process may be “fair and equal” in scheduling data services to access to a network link as taught by Date, a round robin selection method to select a multimedia channel from a plurality of multimedia channels would not be “fair and equal” when selecting a multimedia channel to compress. As round robin selection would subject the selected multimedia channel to reduced quality while the unselected multimedia channels retain their original quality, which is neither “fair” nor “equal” to the selected multimedia channel. Rather, the process taught by Date, i.e., the compression of each and every “audio/video signal”, is both “fair” in that every “audio/video signal” is selected for “compression” and “equal” in that Date teaches that each “audio/video signal” can be “informed of the same quantities of reduction” (*see*

Date, col. 5, lines 43-44)(emphasis added). Thus, it is the technique of *Date*, rather than the selection method of *Polzolu*, that is the “fair and equal” technique.

Claim 49 further recites the features of “generating, at the media server, a second data stream comprising the second set of multimedia channels and the one or more multimedia channels of the plurality of multimedia channels not selected for the first set.” *Date* teaches that each and every “audio/video signal” is compressed, and thus *Date* fails to disclose generation of a second data stream that has both one or more uncompressed multimedia channels from the first stream and one or more compressed multimedia channels from the first stream as provided by this recited feature. Moreover, as noted above, it would not be obvious to replace the technique taught by *Date* with a round robin selection method or any other selection method in view of the teachings of *Putzolu*. Accordingly, the proposed combination of *Date*, *Banks*, and *Putzolu* fails to disclose or render obvious the above-identified feature of claim 49.

As discussed above, it would not be obvious to combine *Date*, *Banks*, and *Putzolu* as proposed by the Office, and even if combined, the combination of *Date*, *Banks*, and *Putzolu* would fail to disclose or render obvious each and every feature recited by claim 49. The proposed combinations of *Date*, *Banks*, and *Putzolu* also fail to disclose or render obvious the particular combinations of features recited by claims 50-64 at least by virtue of their dependency from claim 49. Moreover, these dependent claims recite additional novel and non-obvious features.

To illustrate, dependent claim 63 recites the additional features of “wherein the predefined selection method [used to select one or more multimedia channels] includes selecting an uncompressed multimedia channel over a compressed multimedia channel.” The Office asserts that “although not disclosed, it would have been obvious to select an uncompressed channel over a compressed channel (Official Notice)” in that “[d]oing so would have been obvious in order to provide a high-quality lossless image to a user.” However, it is noted that claim 63 is rejected on a combination of references that relies on the disclosure of *Putzolu* for the “selection method”. As the Office notes, *Putzolu* teaches a “round robin method”, which is not consistent with a preferential selection such as selecting an uncompressed multimedia channel over a compressed multimedia channel. Thus, it is unclear how it would be obvious in view of

Putzolu to disregard the round robin selection of Putzolu for the incompatible preferred selection technique of selecting an uncompressed multimedia channel over a compressed multimedia channel as provided by claim 63.

As another example, claim 64 recites the features of “compressing in a first manner in response to determining a multimedia channel being compressed has not been compressed in the first manner” and “compressing in a second manner in response to determining the multimedia channel being compressed has been compressed in the first manner.” Date fails to disclose any mechanism for determining whether an “audio/video signal” being encoded has been “compressed” in any manner, much less that the “audio/video signal” would be encoded in a “second manner” if so determined. The Office therefore turns to the passage of Banks for this feature, and merely cites the passages at col. 6, lines 1-25 and col. 7, lines 30-40 and FIGS. 1 and 2 without providing any interpretation or further discussion. *See Office Action*, p. 6. However, no disclosure relating to determining whether a multimedia channel has been compressed in a first manner, and if so, instead compressing it in a second manner can be found in the cited passages of Banks. Likewise, the Applicants are unable to discern how the features of claim 64 are disclosed by FIGS. 1 and 2 of Banks. It therefore is respectfully submitted that the Office has failed to make a *prima facie* case for Bank’s disclosure of the features of claim 64.

With respect to claims 65-96, the proposed combinations of Date, Banks, and Putzolu fail to disclose the particular combinations of features recited by these claims for at least the reasons provided above.

In view of the forgoing, reconsideration and withdrawal of the obviousness rejections is respectfully requested.

Conclusion

The Applicant respectfully submits that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present

application to issue, if any comments, questions, or suggestions arise in connection with the present application.

It is not believed that additional fees are due, but if the Commissioner believes additional fees are due, the Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-1835.

Respectfully submitted,

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